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# KANSAS CITY POWER AND LIGHT COMPANY<sup>1, 2</sup>

(Document No. 1)

KANSAS CITY, MISSOURI

December 18, 1920

*Continental and Commercial Trust and Savings Bank*  
*Guaranty Company of New York*  
*Halsey, Stuart & Co.*

GENTLEMEN:

In connection with the \$10,000,000 First and Refunding Mortgage Twenty-Year 8 per cent Gold Bonds, Series A, of this Company, the issuance of which has been authorized by the Public Service Commission of Missouri and the Kansas Court of Industrial Relations, I am pleased to submit the following information:

## BUSINESS AND PROPERTY

The Kansas City Power and Light Company, incorporated in 1919 under the laws of the state of Missouri, has acquired and now owns and operates the properties formerly owned by the Kansas City Light and Power Company and the Standard Electric Light Company. The company controls the electric light and power business in Kansas City, Missouri. It also serves the adjacent territory, including practically all of Jackson County, Missouri, and Johnson County, Kansas, and a portion of Kansas City, Kansas, and other territory in Wyandotte County. The steam-heating plant at Kansas City, Missouri, is also owned and operated by the company. The total population served is approximately 450,000.

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<sup>2</sup> The *Journal* will print from time to time cases and problems for class use. The Kansas City Power and Light Company case is the first of this series and will be found useful in courses dealing with bond issues. It will be found particularly valuable as a means of acquainting the student with the procedure and documents involved in financing a going concern through bond issues; as a means of letting him see the effect on the corporate financial structure of the issue of various types of securities; as a means of showing the effects on future financial activities of obligations incurred and promises made in the deed of trust; and as a means of indicating that the financial management of the business must consider the investor's point of view in selling securities.

Arrangements have been made with the University of Chicago Press to make reprints of this case available for class use at 35 cents per copy.

The physical property owned by the Kansas City Power and Light Company includes electric generating stations with an aggregate installed normal capacity of 83,250 kw., and 16 substations with transformer capacity of 73,894 kw. The company has 126 miles of high tension transmission lines, 140 miles of underground cable, and 860 miles of low tension distributing lines. Of the installed capacity, 60,000 kw. is located at the Northeast Power Plant which was begun in the fall of 1917 and recently completed. This plant is one of the most modern and efficient steam-generating stations in the country and is so designed that its present installed capacity may be increased to an ultimate capacity of 240,000 kw.

	Authorized	Outstanding*
Capital Stock:		
Common . . . . .	\$20,000,000	\$5,000,000
First Preferred 8% Cumulative . . . .	25,000,000	4,000,000
Funded Debt:		
Kansas City Power & Light Company First and Refunding Mortgage 8% Gold Bonds (this issue) . . . . .	†	10,000,000
Kansas City Light & Power Company Second Mortgage 6% Gold Bonds, due July 7, 1944 . . . . .	1,917,300§	1,695,500
Kansas City Light & Power Company First Mortgage 5% Gold Bonds, due July 7, 1944 . . . . .	††	3,060,000

\* Excluding sinking fund and pledged bonds, mentioned in † and ††, and treasury stock.

† Issuance of additional bonds restricted by provisions of Trust Deed, referred to below.

§ The entire authorized amount has been issued and \$221,800 par value have been purchased through operation of the sinking fund which calls for payments of \$10,173 semi-annually.

†† In addition to the 5 per cent bonds outstanding in the hands of the public, \$4,617,000 6 per cent bonds are deposited as collateral for the Kansas City Power and Light Company, First and Refunding Mortgage Bonds (this issue), and any additional bonds that may be issued (the aggregate amount of which is not limited) must be so deposited.

#### PURPOSE OF ISSUE

The proceeds of this issue of bonds will be used to retire \$8,000,000 first mortgage and collateral trust notes due January 1, 1921 (issued mainly in connection with the construction of the new Northeast Power Plant), and for other corporate purposes.

#### SECURITY OF BONDS

These bonds will be secured (a) by a direct first mortgage lien on the company's recently completed Northeast Power Plant, certain substations and transmission and distribution lines, and other property, the aggregate value of the property upon which these bonds are to have a first lien being approximately \$10,500,000; (b) on the remain-

ing property of the company these bonds will be secured by a direct mortgage lien, subject only to underlying first and second mortgage bonds now outstanding, and will share to the extent of 60 per cent in the first lien on such property through pledge of \$4,617,000 par value of the total outstanding amount of first mortgage bonds of the predecessor, Kansas City Light and Power Company. The total value of the company's properties, as recognized by the Public Service Commission of Missouri for rate-making purposes, is in excess of \$22,400,000. There will be \$14,755,500 bonds (including underlying issues) presently outstanding in the hands of the public.

#### BONDS RESERVED FOR REFUNDING

Under the provisions of the Trust Deed, there will be immediately issued and deposited with the Trustee, \$4,977,300 First and Refunding Mortgage Twenty-five Year 6 per cent Bonds, Series B, due December 1, 1945, which are reserved for the acquisition, payment, or redemption of the above-mentioned \$3,060,000 first mortgage bonds and \$1,695,500 second mortgage bonds of the predecessor, Kansas City Light and Power Company, and any underlying bonds acquired are to be pledged immediately with the Trustee of this issue as further security therefor.

#### ISSUANCE OF ADDITIONAL BONDS

Additional bonds may be issued in series and (if not Series A or B) bearing such rates of interest, and maturing at such times, as the Board of Directors at the time of issuance may determine (not before December 1, 1940, however, so long as these Series A bonds are outstanding), but, except for refunding purposes, only for 80 per cent of the actual cash cost or fair market value, whichever is less, of permanent improvements, additions, or betterments, and then only provided that net earnings as defined in the Trust Deed, for twelve consecutive months within the fifteen months last past have been at least twice, or for each of the three consecutive twelve-month periods last preceding have been at least one and three-quarters times, the annual interest requirements on all underlying bonds outstanding in the hands of the public and on all first and refunding mortgage bonds outstanding, including those proposed to be issued.

#### MAINTENANCE AND DEPRECIATION FUND

The Trust Deed will provide for an annual maintenance and depreciation fund amounting to  $12\frac{1}{2}$  per cent of gross earnings. To the extent that such amount is not expended in any year for maintenance,

renewals, or replacements of the company's property, the company may receive credit therefrom for permanent improvements, additions, or betterments, none of which shall be used as a basis for the issuance of bonds except upon reimbursing the fund to an amount in cash equal to the fair market value, at the time of the issuance of such bonds of the permanent improvements, additions, or betterments, or their actual cash cost, whichever is less. Moneys in the fund may be used at any time for maintenance, renewals, or replacements or may be invested in or used for the retirement of first and refunding mortgage bonds.

#### IMPROVEMENT FUND

The company will also covenant in the Trust Deed to set aside in a special fund annually, beginning April 1, 1927, 1 per cent of the amount of first and refunding mortgage bonds outstanding at the end of the preceding year. This fund may be used for permanent improvements, additions, or betterments to the property (against which no bonds may be issued) or may be used for the purchase and retirement of outstanding first and refunding mortgage bonds.

#### EARNINGS

The gross earnings of the Kansas City Power and Light Company and its predecessor constituent companies have increased from \$2,805,646 for the calendar year 1915 to \$4,749,419 for the calendar year 1919. During this period net earnings before deducting depreciation averaged over two and one-half times the interest chargeable to operations and in each of these five years, net earnings have been not less than twice such interest except in 1918, when interest was not fully earned because of operating conditions which have now been remedied by the construction of the new Northeast Power Plant. The following is a statement of the earnings of the company and its predecessor constituent companies for the twelve months ended October 31, 1920:

Gross Earnings . . . . .	\$5,762,844.48
Operating Expenses, including maintenance and taxes . . . . .	3,786,958.80
Net Earnings . . . . .	\$1,975,885.68
Annual Interest on total mortgage indebtedness outstanding in hands of public, including this issue, and bonds held alive in sinking fund requires . . . . .	1,068,038.00*

\* \$600,000 of these interest charges are attributable to construction expenditures from which the company has not yet received full benefits.

Based upon results for the first ten months, net earnings, before depreciation, for the twelve months ending December 31, 1920, are estimated at \$2,150,000, over twice the annual interest requirements shown above. During this period the company will have produced at its new Northeast Power Plant only about 60 per cent of its power requirements, practically all of the balance being purchased. The difference between the actual cost of the power so purchased, and the cost of producing a like amount at the new Northeast Power Plant, is approximately \$600,000, so that had the company secured its entire output during the year from its new station, the foregoing estimate of net earnings for the year 1920 would be increased to approximately \$2,750,000. It is expected that in 1921 practically all current will be generated at the new power plant.

#### FRANCHISES

The franchise situation is eminently satisfactory. The company's electric light and power franchises both in Missouri and Kansas are, with minor exceptions, perpetual. Steam-heating franchise runs until 1935.

#### TERRITORY SERVED

The growth of the district served has been rapid, the population according to the United States Census having been 326,958 in 1900, 448,915 in 1910, and 557,474 in 1920.

Kansas City, Missouri, has had a remarkable and stable growth during the past forty years and is still rapidly increasing in size and importance. It is the Federal Reserve City of the Tenth District, being the financial, manufacturing, and jobbing center for a vast area in the great grain and cattle section of the country. It is second only to Chicago among the country's live-stock markets and packing centers and is the third largest grain market in the country.

Very truly yours,

(Signed) JOSEPH E. PORTER  
*President*

(Document No. 2)

**Kansas City Power and Light Company**

TO

CONTINENTAL AND COMMERCIAL TRUST AND SAVINGS BANK

AND

JOHN F. DOWNING

TRUSTEES

---

**First and Refunding Mortgage and Deed of Trust**DATED DECEMBER 1, 1920

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SECURING

FIRST AND REFUNDING MORTGAGE GOLD BONDS

**Indenture**, dated the first day of December, 1920, but actually executed this twenty-eighth day of December, 1920, by and between the Kansas City Power and Light Company, a corporation duly organized and existing under and by virtue of the laws of the state of Missouri (hereinafter referred to as the "Company"), party of the first part, and the Continental and Commercial Trust and Savings Bank, a corporation organized and existing under the laws of the State of Illinois (hereinafter sometimes referred to as the "Corporate Trustee"), and John F. Downing, of Kansas City, Missouri (hereinafter sometimes referred to as the "Individual Trustee"), as Trustees (hereinafter collectively referred to as the Trustees), parties of the second part, witnesseth:

Whereas, the Company is fully authorized and empowered under the laws of the states of Missouri and Kansas to manufacture and sell in the city of Kansas City in the state of Missouri, and in the city of Kansas City in the state of Kansas, and in various places adjacent thereto, electric light and power and furnish steam heat and other forms of energy; and . . . . [Five paragraphs omitted, dealing chiefly with the authorization of the issue of this mortgage.]

Whereas, the Company now proposes to execute and deliver this indenture and from time to time hereafter to execute and issue for its lawful corporate purposes its corporate bonds to be thereby secured; and

Whereas, each of the coupon bonds of Series A to be issued hereunder is to be in substantially the following form (coupon bonds of

other series to be in substantially the same form with suitable variations):

[Forms omitted.]

Now, therefore, in consideration of the premises and of the sum of one dollar duly paid by the Trustees to the Company and for other good and valuable consideration, receipt whereof is hereby acknowledged, for the purpose of securing the due and punctual payment of the principal and interest of all bonds which shall be issued hereunder, the Company has given, granted, bargained, sold, transferred, assigned, pledged, mortgaged, warranted, and conveyed, and by these presents does give, grant, bargain, sell, transfer, assign, pledge, mortgage, warrant, and convey unto the Continental and Commerical Trust and Savings Bank and John F. Downing, as Trustees, as herein provided, and their respective successors in the trust hereby created, all and singular, the plants, rights, franchises, privileges, easements and property, real, personal, and mixed, now owned by the Company or which may hereafter be acquired by it, together with the rents, issues, and profits thereof, excepting, however, (and there are hereby expressly reserved from the lien and effect of this mortgage) all lamps and supplies, machinery, appliances, goods, wares, and other movable property now or at any time handled by the Company for sale as merchandise and not in use or connected as fixtures with its own plants.

There is included in this conveyance, and the Company hereby expressly gives, grants, bargains, sells, transfers, assigns, pledges, mortgages, warrants, and conveys the following described property owned by the Company, to-wit:

#### A

The following described real estate, situated in Jackson County, Missouri: [Description omitted.]

#### B

The following described real estate, situated in Wyandotte County, Kansas: [Description omitted.]

#### C

The following described real estate situated in Clay County, Missouri: [Description omitted.]

#### D

14. All other lands and interests in lands; all plants, works, power houses, distributing stations, substations, transformer stations, heat-



ing plants and other buildings, and the fixtures, fittings and equipment thereof, including among other things, all dynamos, engines, turbines, motors, boilers, pumps, condensers, generators, transformers, converters, compensators, regulators, variators, exciters, meters, batteries, switchboards, shafting and belting . . . .

All franchises, ordinances, privileges, permits, licenses and grants and all other property and rights, now owned or hereafter acquired by the Company, together with all and singular the easements, hereditaments and appurtenances thereunto or to any thereof belonging or in anywise appertaining, and all extensions, additions, improvements, betterments, renewals and replacements thereof or thereto, and all of the estate, right, title, interest, property, possession, claim and demand whatsoever as well in law as in equity of the Company of, in and to the same; excepting, however, from the lien and effect of this mortgage and deed of trust all lamps and supplies, machinery appliances, goods, wares and other movable property now or at any time handled by the Company for sale as merchandise, and not in use or connected as fixtures with any of its plants.

## E

### 15. FIRST MORTGAGE BONDS OF KANSAS CITY LIGHT AND POWER COMPANY

\$4,617,000 in principal amount of the first mortgage gold bonds of Kansas City Light and Power Company, dated as of the first day of July, 1915, and secured by the first mortgage from Kansas City Light and Power Company to Continental and Commercial Trust and Savings Bank and Edward F. Swinney, as Trustees, given to secure first mortgage gold bonds of Kansas City Light and Power Company from time to time issued thereunder, of which \$7,677,000 in principal amount are outstanding; and all additional bonds of said issue of first mortgage gold bonds of Kansas City Light and Power Company hereafter acquired by the Company or hereafter issued.

## F

### 16. SHARES OF STOCK OF OTHER CORPORATIONS

[Description omitted.]

## G

### 17. FRANCHISES OWNED BY THE COMPANY

[Description omitted.]

All other franchises and interest therein now or hereafter owned by the Company.

To have and to hold all said property hereby conveyed, assigned, pledged, or mortgaged or intended to be conveyed, assigned, pledged, or mortgaged, together with the rents, issues, and profits thereof, unto the said Trustees, their successors in trust and its and their assigns forever; subject, however, to the extent that they are liens on certain of the properties hereinbefore described (a) to a first mortgage given by the Kansas City Light and Power Company to Continental and Commercial Trust and Savings Bank and Edward F. Swinney, as Trustees, dated July 1, 1915, to secure certain first mortgage gold bonds of the Kansas City Light and Power Company . . . and (b) to a second mortgage given by the Kansas City Light and Power Company to the Central Trust Company of New York and John F. Downing, as Trustees, dated July 1, 1915, to secure certain second mortgage sinking fund gold bonds of the Kansas City Light and Power Company.

In trust, nevertheless, for the equal and proportionate benefit and security of holders of all bonds and interest coupons now or hereafter issued hereunder, pursuant to the provisions hereof, without any preference, distinction, or priority as to lien or otherwise of any bond or bonds over others by reason of the difference in time of the actual issue, sale, or negotiation thereof; but so that each and every bond now or hereafter issued hereunder shall have the same lien, and so that the principal and interest of every such bond shall, subject to the terms hereof, be equally and proportionately secured hereby as if all had been made, executed, delivered, sold, and negotiated simultaneously with the execution and delivery hereof.

And it is expressly declared that all said bonds to be hereunder secured are to be issued, authenticated, and delivered, and all said property herein mortgaged or pledged is to be held, dealt with, and disposed of under, upon, and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses, and purposes hereinafter expressed.

#### ARTICLE I

##### FORM, ISSUANCE, AUTHENTICATION, AND REGISTRATION OF BONDS

SECTION 1. The amount of bonds which may be made, executed, authenticated, and delivered hereunder is not limited except that the total amount of bonds outstanding shall not in any event exceed the amount permitted by law so long as such law remains in force. All bonds issued hereunder and pursuant to this indenture, and at any time outstanding, shall, in all respects, be equally and ratably secured

hereby, without preference, priority, or distinction on account of the actual time or times of the issue or maturity of the said bonds or any of them, so that all bonds at any time issued and outstanding hereunder shall have the same lien under and by virtue of this indenture . . . .

All bonds to be secured hereby shall be issued in series as herein or as from time to time shall be authorized by the Board of Directors of the Company.

[Here follows description of interest rate, date, and call provisions, of bonds of Series A and B.]

The bonds of Series A and Series B to be presently issued hereunder aggregate in face amount the sum of \$14,977,300, of which \$10,000,000 face amount are Series A bonds and \$4,977,300 face amount are Series B bonds.

SECTION 3. Three million and sixty thousand dollars (\$3,060,000) face amount of said Series B bonds mentioned in Section 2 of this Article shall be reserved to be issued as provided in this section, in exchange for or for or on account of the purchase or acquisition of uncanceled 5 per cent bonds of the Kansas City Light and Power Company, hereinafter in this section called first mortgage bonds, in the aggregate principal amount of three million and sixty thousand dollars (\$3,060,000) now outstanding and secured by a mortgage executed by the Kansas City Light and Power Company to the Continental and Commercial Trust and Savings Bank of Chicago, Illinois, and Edward F. Swinney, Trustees, dated July 1, 1915, such mortgage being hereinafter called the first mortgage, such first mortgage bonds so purchased or acquired to be pledged under this indenture as additional security. Such Series B bonds may also be issued for the purpose of paying at or after maturity such first mortgage bonds, or, if the second mortgage hereinafter mentioned of the Kansas City Light and Power Company has then been satisfied and discharged of record or all of the bonds outstanding thereunder have been deposited with the Corporate Trustee hereunder, except those held in the sinking fund, for the purpose of redeeming any or all of such first mortgage bonds before maturity.

Whenever the Company shall deposit or cause to be deposited with the Corporate Trustee hereunder any of such first mortgage bonds, together with all unmatured coupons thereunto appertaining, acquired, paid, or redeemed as above provided, the Corporate Trustee in exchange therefor, shall authenticate and deliver to or upon the

written order of the president or a vice-president of the Company bonds reserved under this section in a principal amount equal to the aggregate principal amount of the first mortgage bonds so deposited. In case any unmatured coupon or coupons belonging to any first mortgage bonds tendered to the Corporate Trustee as in this section provided shall be missing at the time of any such tender to the Corporate Trustee, the Corporate Trustee may nevertheless accept such first mortgage bonds without such coupon or coupons, in case such first mortgage bonds shall have been redeemed (as herein provided) and by the provision of the first mortgage securing the same after the date of redemption are not collectible, or in case there shall have been deposited with the Corporate Trustee or with the corporate trustee under the first mortgage for the payment of such missing coupon or coupons an amount of cash equal to the face amount of the missing coupon or coupons. Any and all of such first mortgage bonds so delivered to the Corporate Trustee, unless paid or redeemed as above permitted, shall continue to be subsisting obligations of the Company and shall be held by the Corporate Trustee as part of the security hereunder until released as hereinafter provided.

Whenever said first mortgage shall be satisfied and discharged of record, or whenever sufficient money shall have been deposited with the corporate trustee under said first mortgage to entitle the Company to a discharge thereof, in accordance with the terms thereof, or whenever all of the bonds issued and outstanding under said first mortgage shall have been deposited with the Corporate Trustee hereunder, then, and in that event, the Corporate Trustee hereunder shall authenticate and deliver to the Company or upon its order all of the bonds reserved under this section which at the time have not been so authenticated and delivered. . . .

SECTION 4. One million nine hundred seventeen thousand three hundred dollars (\$1,917,300) of said Series B bonds mentioned in Section 2 of this Article shall be reserved to be issued as provided in this section, in exchange for or for or on account of the purchase or acquisition of bonds of the Kansas City Light and Power Company, hereinafter called second mortgage bonds, in the aggregate principal amount of one million nine hundred seventeen thousand three hundred dollars (\$1,917,300) secured by a mortgage duly executed by the Kansas City Light and Power Company to the Central Trust Company of New York and John F. Downing, Trustees, dated July 1, 1915, such mortgage being hereinafter called the second mortgage, such second

mortgage bonds so purchased or acquired to be pledged under this indenture as additional security. Such Series B bonds may also be issued for the purpose of paying off or redeeming at, before, or after maturity, all or any of such second mortgage bonds at the time outstanding.

[The remainder of Section 4 is similar to corresponding portion of Section 3.]

SECTION 5. Upon the execution and delivery of this indenture the Corporate Trustee shall, upon the written request or requests of the Company, signed by its president or one of its vice-presidents under its corporate seal, at any time or from time to time authenticate and deliver as directed in any such written request not to exceed ten million dollars (\$10,000,000) face amount of Series A bonds mentioned in Section 2 of this Article and in such denominations as may be authorized hereunder and specified in such request or requests, and without any further action on the part of the Company. So much of the proceeds of said Series A bonds as shall be required therefor shall be used by the Company for the purpose of redeeming or paying at or before maturity the entire amount of first mortgage and collateral trust 7 per cent gold notes of the Company dated October 1, 1919.

[Omitted portion relates to custody by Trustee of the first and second mortgage bonds deposited under the provisions of Sections 3 and 4.]

The interest upon any first mortgage bonds or second mortgage bonds, at any time held by the Corporate trustee hereunder, shall not be required to be paid unless and until one or more of the events of default described in Section 1 of Article VII of this indenture shall occur, or proceedings shall have been instituted to enforce either the first mortgage or second mortgage, pursuant to the provisions thereof, but upon the happening of any such event of default hereunder or the institution of any such proceeding, all interest maturing on such first mortgage bonds or second mortgage bonds, on and subsequent to the date upon which such event of default occurred, or the date upon which the default was made in respect whereof such proceedings were instituted, as the case may be, shall become payable and may forthwith be collected and payment enforced ratably and equally with all of the other first mortgage bonds or second mortgage bonds, as the case may be, not deposited with the Corporate Trustee. All interest maturing on any of the first mortgage bonds or second mortgage bonds, as the case may be, so deposited prior to the happening of any such

event of default or the commencement of proceedings to enforce either the first mortgage or second mortgage, as the case may be, shall be deemed to have been paid and satisfied, and upon the request of the Company therefor, the coupons representing such interest shall be canceled by the Corporate Trustee and delivered to the Company.

Every first mortgage bond and second mortgage bond received by the Corporate Trustee shall be by it stamped with the words, "Not negotiable, held in trust for the purposes declared in the First and Refunding Mortgage and Deed of Trust of Kansas City Power and Light Company, dated December 1, 1920."

SECTION 8. From time to time hereafter, when and as the Company shall have made, after December 1, 1920, any permanent improvements, additions, or betterments (as such term is hereinafter defined), to or about its plants or property, the Company may sign, seal, and deliver to the Corporate Trustee and the Corporate Trustee shall authenticate and deliver to the Company bonds hereby secured, but only to a principal amount equal to eighty per cent (80%) of the actual cash cost or fair market value, whichever is less, of such permanent improvements, additions, or betterments, provided that this indenture is a first lien on such improvements, additions, or betterments (except current taxes, and except liens permitted under Section 10 of this Article for the refunding of which liens bonds hereunder are reserved by the Corporate Trustee under the provisions of such section), and provided further that the net earnings of the Company (as such term is hereinafter defined), for twelve consecutive calendar months within the fifteen calendar months immediately preceding any application for authentication and delivery of bonds under this section, shall have been at least twice (or for each of the three consecutive twelve calendar months periods immediately preceding such application shall have been at least one and three-quarter times) the annual interest requirements upon all the first mortgage bonds and second mortgage bonds of said Kansas City Light and Power Company, issued and outstanding under the mortgages securing the same (except such of said first mortgage and second mortgage bonds as shall have been deposited with the Corporate Trustee, but including second mortgage bonds in the sinking fund), and upon all other obligations (including those held alive in sinking funds) secured by liens or encumbrances prior to the lien of this indenture upon any of the property of the Company hereafter acquired by it, and upon all bonds then outstanding under this indenture, and upon all bonds then

applied for hereunder and, if the Company is succeeded by a successor corporation as hereinafter provided upon all other obligations of such successor corporation secured by lien upon any of its properties, unless this indenture is a lien thereon prior thereto. . . .

The term "permanent improvements, additions or betterments," wherever used in this indenture, is intended to and shall include any new or additional property acquired or constructed, but shall not include improvements, additions, or betterments acquired or constructed as substituted property under the provisions of this indenture with reference to the release of property from the lien hereof<sup>1</sup> or with the proceeds of any property so released, or with insurance moneys received in payment of losses, or from the maintenance and depreciation fund (except upon reimbursement of the fund, as provided in Section 6 of Article II), or from the improvement fund hereinafter provided for, or permanent improvements, additions, or betterments, in respect of which any of the first mortgage bonds may be issuable.

The term "net earnings" wherever used in this indenture shall mean and shall be calculated to include the total gross earnings of the Company from all sources for the period stated, less all operating expenses, including taxes, rentals, municipal percentages of earnings, insurance, and reasonable charges for maintenance and renewals (such reasonable charges being defined as the actual charges or  $6\frac{1}{4}$  per cent of such gross earnings, whichever is greater), but not including depreciation. If in any year any extraordinary expenditure or expenditures are made for maintenance or renewals, such extraordinary expenditure or expenditures may be charged over a reasonable period of time as shall be approved by an engineer (who may be an engineer of the Company) approved by the Corporate Trustee.

But before authenticating and delivering an instalment of bonds under this section the Corporate Trustee may, in its discretion, and shall, if requested in writing so to do by the holders of not less than 10 per cent of the bonds then outstanding hereunder and furnished with security and indemnity satisfactory to it, cause to be made such independent investigation as it may see fit, and, in that event, may decline to authenticate or deliver such instalment of bonds unless satisfied by such investigation of the truth and accuracy of the matters so investigated. The expense of such investigation shall be paid by the Company, or if paid by the Corporate Trustee shall be repaid by the Company upon demand, with interest at the rate of six per cent ( $6\%$ ) per annum after demand.

<sup>1</sup> See p. 301.

SECTION 9. No bonds shall be issued under this indenture for the purpose of providing funds for the Company to keep or maintain the property covered by this indenture in good and business-like working order and condition, or merely to replace old, worn-out, or obsolete property; provided, however, that whenever old, worn-out, or obsolete property is replaced by property costing more than the original cost of such old, worn-out, or obsolete property, then such excess of cost of such other property acquired to replace the old, worn-out, or obsolete property, and such excess only, shall be deemed permanent improvements, additions, or betterments, for which bonds may be authenticated and delivered under any of the provisions of this Article.

SECTION 10. In the event that any property acquired by the Company and made the basis of an application for the authentication and delivery of bonds hereunder is encumbered by a lien or liens prior to that of this indenture (other than that of current taxes), but not being subject to the liens of the first mortgage and second mortgage, hereinbefore referred to, the principal amount of the indebtedness secured by such lien or liens shall be included in computing the cash cost of the property so acquired and made the basis of such application. . . .

From such bonds so authenticated the Corporate Trustee shall retain a principal amount equal to the principal amount of the obligations secured by such lien or liens subject to which such property was so acquired as above stated and shall deliver the balance of the bonds so authenticated by it to or upon the order of the Company. The bonds so retained by the Corporate Trustee shall be held by it, and thereafter from time to time upon delivery to the Corporate Trustee for pledge hereunder or upon satisfaction, discharge and cancellation of any of the principal amount of the indebtedness secured by said lien or liens, the Corporate Trustee shall deliver to the Company bonds of a par value equal to the principal amount of indebtedness so delivered or discharged. . . .

SECTION 11. Whenever the Company shall from time to time deposit or cause to be deposited with the Corporate Trustee hereunder, to be held by such Trustee as part of the security hereunder, any of the first mortgage bonds of the Kansas City Light and Power Company bearing interest at the rate of 6 per cent per annum and redeemable at 103 per cent of the face amount thereof and accrued interest, hereafter issued (pursuant to the covenant on the part of the



Company hereinafter in this indenture contained) under the provisions of Section 2 of Article II of the first mortgage securing said bonds in respect of permanent improvements, additions, or betterments made after December 1, 1920, together with all unmatured coupons thereunto appertaining, the Corporate Trustee in exchange therefor shall, upon the order or orders of the Company evidenced by a copy of a resolution certified to have been duly adopted by the Directors of the Company, authenticate and deliver to or upon the written order of the officer or officers of the Company in such resolution named additional bonds hereunder in a principal amount equal to 80 per cent of the cash cost or fair market value, whichever is less, of such permanent improvements, additions, or betterments, and provided that the net earnings of the Company are at least twice (or one and three-quarter times, as the case may be) its interest requirements as stated and defined in Section 8 of this Article. Additional bonds may be authenticated and delivered under this section only upon or after the deposit of First Mortgage Bonds as aforesaid and upon receipt by the Corporate Trustee of the resolution, certificates and instruments as are specified in Section 8 of this Article I, with suitable variations in the opinion of the Corporate Trustee and except that the certificate of counsel shall state that such improvements, additions, or betterments are free from all liens or encumbrances (other than current taxes) except the liens of the First Mortgage and Second Mortgage above mentioned and including statement of counsel that the first mortgage bonds so deposited have been properly authenticated and issued under Section 2 of Article II of said first mortgage.

[Section 12 deals with privilege of Company to deposit cash at interest with trustee, to be held as part of mortgaged property.]

SECTION 13. All bonds secured hereby, other than Series A or B, shall be dated as of such date or dates, shall bear interest at such rate or rates, shall be redeemable at such redemption prices and at such times, shall consist of coupon bonds or of coupon bonds and registered bonds without coupons and interchangeable or not, all as the Board of Directors of the Company by resolution may from time to time determine, provided that so long as any of Series A bonds issued hereunder are out-standing no additional bonds shall be issued hereunder which by their term mature prior to December 1, 1940. All bonds issued hereunder shall be payable, both principal and interest, at the office of the Chase National Bank of the City of New York, in said city, or, at the option of the holders, at the office of the Continental

and Commerical Trust and Savings Bank in the city of Chicago, state of Illinois.

[Section 14 deals with signature and corporate seal to be affixed to bonds. Section 15 deals with identification numbers and with interchange of bonds for bonds of different denominations.]

SECTION 16. The Corporate Trustee, at its office in the city of Chicago, Illinois, will keep books for the registry transfer and exchange as in this indenture provided, of bonds issued hereunder to the extent that such bonds are entitled thereto.

Any coupon bond may be registered, as to principal only on said books of the Corporate Trustee at its said office. After such registration, no transfer shall be valid unless made on said books by the registered holder, in person or by his attorney duly authorized, and similarly noted on the bond. . . .

For any exchange (1) of bonds for bonds of another denomination, or (2) of coupon bonds for registered bonds, or (3) of registered bonds for coupon bonds, and (4) for any transfer of registered bonds without coupons—the Company, at its option, may require the payment of a sum sufficient to reimburse it for any stamp tax or other governmental charge, and, in addition thereto, the further sum of one dollar, United States money, for each new bond issued upon such transfer or exchange.

SECTION 17. The Company and the Corporate Trustee may deem and may treat the bearer of any coupon bond hereby secured which shall not at the time be registered as hereinbefore authorized, and the bearer of any coupon for interest on any bond whether or not such bond shall be registered, as the absolute owner of such bond or coupon, as the same may be, for the purpose of receiving payment thereof, and for all other purposes, and neither the Company nor the Corporate Trustee shall be affected by any notice to the contrary.

The Company and the Corporate Trustee may deem and treat the person in whose name any registered bond without coupons issued hereunder shall be registered upon the books of the Company as hereinbefore provided, as the absolute owner of such bond for the purpose of receiving payment of or on account of, the principal and interest of such bond and for all other purposes; and may deem and treat the person in whose name any coupon bond shall be registered as the absolute owner thereof, for the purpose of receiving payment of, or on account of, the principal thereof, and for all other purposes, except to receive payment of interest represented by outstanding coupons.

[Section 18 deals with exchange of temporary for definitive bonds.]

SECTION 19. In case any coupon bond issued under this indenture or the coupons thereto appertaining shall become mutilated or be destroyed or lost, or in case any registered bond without coupons shall become mutilated or be destroyed or be lost, the Company, in its discretion, may issue, and thereupon the Corporate Trustee shall authenticate and deliver a new bond of like tenor, date, and series, bearing the same serial number, in exchange and substitution for and upon cancellation and surrender of the mutilated coupon bond and its coupons, or the mutilated registered bond, or in lieu of and substitution for the coupon bond and its coupons or the registered bond so destroyed or lost. The applicant for such substituted bond shall furnish to the Company and the Corporate Trustee evidence to their satisfaction respectively, of the destruction or loss of such coupon bond and its coupons so destroyed or lost, or of the destruction or loss of such registered bond so destroyed or lost; and said applicant also shall furnish such indemnity to both the Company and the Corporate Trustee, respectively, as in their discretion they may require.

## ARTICLE II

### PARTICULAR COVENANTS OF THE COMPANY

The Company hereby covenants and agrees:

SECTION 1. That it is lawfully seized and possessed of all of the aforesaid mortgaged property, premises, rights, privileges, and franchises, and that it has good right and lawful authority to mortgage, pledge, and warrant the same, as provided in and by this indenture; that all of the property, real and personal, herein and hereby mortgaged, pledged, and warranted is free and clear of all liens and encumbrances done or suffered by the Company or any person or persons, firm or corporation, under whom it claims title to the said properties or any of them or to any interest therein, except as hereinbefore in the granting clause of this indenture mentioned; that the Company at any and all times will execute and deliver any and all such further assurances, conveyances, assignments, transfers, mortgages, and pledges thereof as the Corporate Trustee shall reasonably direct or require for the purpose of expressly and specifically subjecting the same to the lien of this indenture.

SECTION 2. That no coupon or claim for interest belonging to any bond hereby secured, which in any way, at or after maturity, shall have been transferred or pledged, separate or apart from the

bond to which it relates, or which shall in any manner have been kept alive after maturity by extension or by the purchase thereof by or on behalf of the Company, shall be entitled, in case of a default hereunder, to any benefit of or from this indenture, except after the prior payment in full of the principal of the bonds issued hereunder and of all coupons and interest obligations not so transferred, pledged, kept alive, or extended.

[Section 3 deals with maintenance of an office in Kansas City by the Corporation.]

SECTION 4. That it will, from time to time, promptly pay and discharge or cause to be paid and discharged all taxes, rates, lawful levies or assessments and charges, special or general, ordinary or extraordinary, levied or imposed upon the said mortgaged premises and property, or any part thereof, including the income derived therefrom, the lien whereof might or could be held to be prior to equal or the lien of these presents. So that the same shall not fall into arrears, and so that the priority of this indenture shall be duly preserved; provided, however, that nothing contained in this section shall require the Company to pay such tax, assessment, impost, or charge so long as the Company shall in good faith and by appropriate legal proceedings contest the validity thereof, or its being a charge on the property covered by this indenture, provided such delay in payment shall not subject the property to forfeiture or sale. If the Company shall fail to keep this covenant the Corporate Trustee may and upon the request of the holders of one or more of the bonds secured hereby and upon being provided with adequate funds for that purpose, shall pay such taxes, assessment and charges; and all amounts so paid with interest at 6 per cent per annum shall be a charge upon the property hereby mortgaged prior to the bonds secured hereby, and may be forthwith sued for and recovered from the Company in an appropriate action for that purpose.

SECTION 5. That at its own cost and expense it will do and cause to be done all things necessary to preserve and keep in full repair and efficiency and in full force and effect all said premises, property rights, privileges, municipal ordinances, and franchises, and will at all times maintain, preserve, and keep its plants, power houses, . . . all transmission and distributing lines and other properties, and every part thereof, in good repair, working order, and condition, and will from time to time make all needful and proper repairs, renewals, and replacements thereof; and will do all things necessary to pre-

serve and keep valid and intact the lien and encumbrance hereby created; and that it shall not and will not do or suffer any matter or thing whatsoever whereby the lien of this indenture might or could be lost or impaired, until the said bonds hereby secured, with all the interest accrued thereon, shall have been fully paid and satisfied.

[Section 6 deals with the maintenance of a depreciation reserve; Section 7 with insurance on property.]

SECTION 8. That if it shall fail to perform any of the covenants contained in Sections 4, 5, and 7 of this Article II, the Trustees or any receiver appointed hereunder, may make advances to perform the same in its behalf; and it hereby agrees to repay all sums so advanced in its behalf, on demand, with interest at 6 per cent per annum after demand, and all sums so advanced with interest as aforesaid shall be secured hereby, having the benefit of the lien hereby created, in priority to the indebtedness evidenced by said bonds and coupons; but no such advance shall be deemed to relieve the Company from any default hereunder.

SECTION 9. That it will also pay and discharge any and all taxes, imposts, and charges for and in connection with the recording, registering, or filing of this indenture, or the issuance of any bonds hereunder that may be lawfully imposed and required under and by virtue of the laws of the United States, or the state of Missouri or the state of Kansas or otherwise.

SECTION 10. That it will cause this indenture at all times to be kept recorded and filed in such manner and in such places as may be required by law for the recordation and filing of a real estate mortgage and if required by the Corporate Trustee for recording and filing as a chattel mortgage, in order to fully preserve and protect the security of the bondholders and all rights of the Trustees.

SECTION 11. That it will, upon reasonable request, execute and deliver such further instruments and do such further acts as may be necessary or proper to carry out more effectually the purposes of this indenture, especially to make subject to the lien hereof any property now owned or hereafter acquired by it, and to transfer to any new trustee or trustees the estate, powers, instruments, and funds held in trust hereunder.

SECTION 12. That it will at any and all times upon the written request of the Corporate Trustee: (a) permit the Corporate Trustee by its agents and attorneys to examine all the Company's books of

account, records, reports, and other papers, and to take copies and extracts therefrom, and all costs and expenses incurred by the Corporate Trustee in any such examination shall be repaid to it by the Company; (b) furnish to the Corporate Trustee a detailed and true balance sheet showing accurately the financial condition of the Company; a full and detailed statement of its earnings and expenses and cost of improvements and extensions given month by month for and during a period of at least twelve months prior to the date of such request; and a full, complete and detailed schedule of the items of property covered by the lien hereof or intended so to be, as the Corporate Trustee may request.

The Corporate Trustee is, however, under no duty to make any such examination, or to require any such balance sheet, statement, or schedule.

SECTION 13. That annually at and as of the close of each fiscal year, the Company will have made by reputable certified public accountants satisfactory to the Corporate Trustee an examination and audit of the earnings and expenditures and balance sheet of the Company, and will furnish a copy of such audit to the Corporate Trustee within three months after the close of each such fiscal year.

SECTION 14. That in case it shall hereafter create any mortgage upon the property subject to the lien of this indenture or any part thereof, such mortgage shall be and shall be expressed to be subject to the prior lien of this indenture for the security of all bonds then issued or thereafter to be issued hereunder.

SECTION 15. That it will, as long as any bonds remain outstanding hereunder, maintain, create, and provide an improvement fund to be applied to the purposes hereinafter set forth in this section of this Article, by payments to be made to the Corporate Trustee as follows: Commencing on the first day of April, 1927, and on the first day of April in each succeeding year, while any bonds remain outstanding hereunder, the Company will pay to the Corporate Trustee hereunder a sum equal to 1 per cent of the face amount of all bonds issued and outstanding hereunder at the close of the preceding calendar year.

All sums paid into the improvement Fund hereunder, together with all accumulations of interest thereon, if any, shall be held by the Corporate Trustee as additional security hereunder and may be drawn down by the Company from time to time for permanent additions, improvements, or betterments made by the Company after

December 1, 1920, which have not been made the basis of the issuance of any bonds hereunder, or the withdrawal of any moneys from the Corporate Trustee or have not been acquired as substituted property under the provisions of this indenture with respect to the release of property from the lien hereof or with insurance moneys, or credited to the maintenance and depreciation fund hereinbefore mentioned or credited to the improvement fund in any other year, or such fund may be used for the purchase at not exceeding their redemption price and cancellation and retirement or for the redemption and cancellation and retirement of bonds outstanding hereunder. No additional bonds shall be issued hereunder against the property or bonds with respect to which expenditures have been made from such funds.

[Remainder of Section 15 deals with disbursements from this fund by trustee.]

SECTION 16. That it will not issue or permit to be issued, any bonds hereby secured in any manner other than in accordance with the provisions of this indenture.

SECTION 17. That it will duly and punctually observe and comply with all covenants, provisions, and conditions contained in the first mortgage and second mortgage, dated July 1, 1915, securing the first and second mortgage bonds of the Kansas City Light and Power Company to be observed and performed by it or by such Kansas City Light and Power Company and will also duly and punctually observe and comply with all covenants, provisions, and conditions of any instruments creating liens on properties hereafter acquired by it subject to such liens.

SECTION 18. That it will forthwith pledge under this indenture upon their issuance all first mortgage bonds of the Kansas City Light and Power Company at any time hereafter issued under the first mortgage of that Company, dated July 1, 1915, securing such bonds.

That it will have authenticated and issued additional first mortgage bonds of such Kansas City Light and Power Company to the fullest extent as may be permitted from time to time under Section 2 of Article II of such first mortgage securing such bonds and will pledge such bonds under this indenture as issued. Such first mortgage bonds of that Company so issued shall bear interest at the rate of 6 per cent per annum and shall be redeemable at 103 per cent of the face amount thereof and accrued interest.

SECTION 19. That it will not, so long as any Series A bonds are outstanding hereunder, issue hereunder any additional bonds maturing prior to December 1, 1940.

SECTION 20. That it will not, so long as any of the \$10,000,000 of Series A bonds presently to be issued hereunder are outstanding hereunder, guarantee or become responsible in any way for any of the notes, bonds, bills, or accounts payable or other debts of any other company, corporation, or association.

[Article III authorizes issuance of convertible bonds under lien of this mortgage. Article IV deals with procedure in redemption of bonds.]

#### ARTICLE V

##### POSSESSION, USE, AND RELEASE OF MORTGAGED PROPERTY

SECTION 1. While not in default in the payment of the principal or interest on any bond hereby secured, or in respect of any of the covenants, agreements, or conditions on its part to be observed or performed in this indenture contained, the Company (1) Shall be suffered and permitted to possess, use, and enjoy all the franchises, rights, and property conveyed by this indenture (other than moneys and securities which are expressly required to be deposited with the Corporate Trustee), and to receive and use the rents, issues, income, product, and profits thereof. (2) May sell or otherwise dispose of, without any release by the Trustees, free from the lien of this indenture, any machinery, equipment, tools, or implements upon replacing the same with new machinery, equipment, tools, or implements, of value at least equal to the original value of that so disposed of and subject to the lien hereof to a like extent. (3) May, with the consent of the Corporate Trustee at any time and from time to time, without any release by the Trustees surrender or assent to the modification of any franchise which it may hold, or under which it may be operating, provided, that . . . the Company shall receive in exchange a new franchise, license, or permit, subject, in the opinion of counsel, to the lien of this indenture to the same extent as that so surrendered. . . .

SECTION 2. The Company may sell or otherwise dispose of any other of its property at any time covered hereby, or otherwise pledged to secure the bonds outstanding hereunder, and the Trustees shall release the same from the lien hereof upon receipt by the Trustees of:

1. A copy of a resolution certified to have been duly adopted by the Board of Directors of the Company requesting such release.

2. A certificate signed by the President or a vice-president of the Company and by an engineer appointed by the Board of Directors of the Company (who may be an engineer of the Company), and approved by the Corporate Trustee, stating in substance as follows:



(a) that the retention of such property is no longer desirable in the conduct of the business of the Company, and that the security hereby afforded will not be impaired by its release, and (b) that the Company has sold or exchanged, or contracted to sell or exchange, the property so to be released for a consideration representing, in the opinion of the signers, its full value to the Company, which consideration may be (1) cash, or (2) partly cash and partly obligations secured by purchase money mortgage upon the property released, or (3) any other property which could be made the basis of an issue of bonds under Section 8 of Article I hereof; such consideration to be set out in reasonable detail in such certificate.

3. Any money or obligations stated in said certificate to have been received in consideration for any such release; and if real estate or other property is included in the consideration for such release, deeds, or other instruments of conveyance, assignment, or transfer sufficient, in the opinion of counsel hereinafter referred to, to subject the same to the lien of this indenture.

4. An opinion of counsel (who may be counsel to the Company) appointed by the Board of Directors of the Company and approved by the Corporate Trustee, to the effect that any obligations included in the consideration for such release are, in his or their opinion, valid obligations, and that any purchase money mortgage securing the same is sufficient to afford a first lien upon the property to be released, and that any deeds or other instruments of conveyance, assignment, or transfer covering any property included in the consideration for such release, are sufficient to subject the same to the lien of this indenture with the same degree of priority which it possessed as a lien on the property to be released.

[Remainder of Article V deals with procedure in buying, selling, and altering properties covered by the mortgage.]

[Article VI deals with application of money received by the Trustee.]

## ARTICLE VII

### REMEDIES UPON DEFAULT

SECTION 1. If one or more of the following events, herein called events of default, shall happen, that is to say, (a) Default shall be made in the payment of the principal of any bonds issued hereunder, or any part thereof. . . . (b) Default shall be made in the payment of an instalment of interest on any bonds when and as the same shall

become due and payable and such default shall have continued for a period of 90 days. (c) Default shall be made by the Company in the due observance or performance of any other of the covenants or provisions of this indenture, and such default shall have continued for a period of 90 days after written notice, specifying such default and requiring the same to be remedied, shall have been given to the Company by the Corporate Trustee or by the holders of 5 per cent in principal amount of the bonds hereby secured and then outstanding. Or (d) a receiver shall at any time be appointed of the Company or of any substantial part of its properties or a petition in bankruptcy shall be at any time filed by or against the Company or if any insolvency or like proceedings shall be at any time taken by or against the Company.

Then (a) upon the election of the Corporate Trustee, or (b) upon the election of the holders of 25 per cent in principal amount of the bonds hereby secured and then outstanding, evidenced by an instrument or instruments in writing, signed by them and delivered to the Corporate Trustee, the entire principal sum secured hereby and the interest accrued thereon shall become and be immediately due and payable; subject, however, to the right of a majority in principal amount of the holders of the bonds then outstanding hereunder to annul such election and destroy its effects or to waive any default hereunder at any time before any sale hereunder, by written notice to the Company and the Corporate Trustee, if, before any such sale, all agreements with respect to which default shall have been made shall be fully performed, and all arrears of interest upon all bonds secured hereby (with interest at the rate borne by the several bonds on any overdue interest instalments), and the principal of any bonds which have matured in due course by their terms and the reasonable charges and expenses of the Corporate Trustee, its agents, and attorneys and all other indebtedness secured hereby, except the principal of bonds whose date of maturity as specified on their face has not yet arrived and interest accrued since the last interest day, shall be paid, or the amount thereof shall be paid to the Corporate Trustee for the benefit of those entitled thereto.

SECTION 2. If one or more of the events of default mentioned in Section 1 of this Article, shall happen, then and in every such case, the Company, upon demand of the Trustees, shall forthwith surrender to the Trustees the actual possession of, and it shall be lawful for the Trustees, by such officer or agent as it may appoint, to take possession of all the property hereby conveyed or intended to be (with the books,

papers, and accounts of the Company), and to hold, operate, and manage the same, and from time to time make all needful repairs, and such alterations, additions, advances, and improvements as to it shall seem wise; and to receive the rents, income, issues, and profits thereof, and out of the same to pay all proper costs and expenses of so taking, holding, and managing the same, including reasonable compensation to the Trustees, its agents, and counsel and any charges of the Trustees, and any taxes and assessments and other charges prior to the lien of these presents which the Trustees may deem it wise to pay, and all expenses of such repairs, alterations, additions and improvements, and to apply the remainder of the moneys so received by it, first, to the payment of the interest instalments, which are due and unpaid, in the order of their maturity, with interest at the rate borne by the several bonds on any overdue interest instalment. . . . Whenever all that is due upon such interest instalments and upon the principal of such bonds, and under any of the terms of this indenture shall have been paid and all defaults made good, the Trustee shall surrender possession to the Company, its successors, or assigns. The same right of entry, however, shall exist upon any subsequent default.

SECTION 3. If one or more of the events of default mentioned in Section 1 of this Article shall happen, then and in any such case, it shall be lawful for the Trustees by such officer or agent as it may appoint, with or without entry, to sell all the property and appurtenances hereby conveyed or intended to be, or which may be covered hereby or in any manner may be subject to this indenture, as an entirety, or in such parcels as the holders of a majority in amount of the bonds secured hereby shall, in writing, request, or in the absence of such request, as the Trustees may determine, at public auction.

SECTION 4. No holder of any bond or coupon issued hereunder shall have any right to institute any action, suit, or proceeding in equity or at law, for the foreclosure of this indenture or for the execution of any trust thereof, or for the appointment of a receiver, or for the recovery of any amount declared or become due and payable for principal by acceleration hereunder, or for any other remedy hereunder or by reason hereof, unless such holder previously shall have given to the Corporate Trustee written notice of the happening of an event of default or unless also the holders of 25 per cent in principal amount of the bonds hereby secured then outstanding shall have made written request upon the Trustees and shall have afforded to them a reasonable opportunity either to proceed to exercise the powers herein granted, or

to institute such action, suit, or proceeding in the names of the Trustees; nor unless, also, they shall have offered to the Trustees adequate security and indemnity against the costs, expenses, and liabilities to be incurred therein or thereby, and the Trustees shall have refused or neglected to comply with such request within a reasonable time thereafter.

[Sections 5 to 8 inclusive deal with procedure in selling property on account of default.]

SECTION 9. The proceeds of any such sale, whether made under the power of sale hereby given or under judgment or decree of Court or otherwise, together with any other sums which may then be held by the Trustees under any of the provisions of this indenture as part of the trust estate, or the proceeds thereof, shall be applied as follows:

First. To the payment of all taxes, assessments or liens prior to the lien of this indenture, except those subject to which such sale shall have been made, and of all costs and expenses of such sale, including a reasonable compensation to the Trustees, its agents, and attorneys, and of all other sums payable to the Trustees hereunder by reason of any expenses, liabilities, or advances made by it.

Second. To the payment of the whole amount then owing and unpaid upon the bonds hereby secured for principal and interest, with interest on the overdue instalments of interest, at the same rate borne by the principal of the said bonds respectively according to their terms, and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid, then to the payment of such principal and interest ratably, without preference or priority of principal over interest, or of interest over principal, or of any instalment of interest over any other instalment of interest (save and except, however, as otherwise provided in regard to extended, transferred, or pledged coupons or claims for interest in Section 2 of Article II of this indenture).

Third. Any surplus then remaining to the Company, its successors or assigns, or to whosoever may be lawfully entitled to receive the same.

[Sections 10 and 11 deal with waiver of certain defenses by Company; Section 12 with restoration of original status after abandonment of procedure begun on account of default.]

SECTION 13. No delay or omission of the Trustees, or of any holders of bonds hereby secured, to exercise any right or power accruing upon any default shall impair any such right or power or shall be

construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this indenture to the Trustees, or to the bondholders, may be exercised, from time to time, and as often as may be deemed expedient by the Trustees, or by the bondholders.

[Article VIII deals with evidence of rights of bondholders.]

#### ARTICLE IX

##### DEFEASANCE

If the Company, its successors, or assigns, shall pay or cause to be paid unto the holders of said bonds and coupons the principal and interest to become due thereon at the times and in the manner stipulated therein, and shall keep, perform, and observe all and singular the covenants and promises in said bonds, and in this indenture expressed as to be kept, performed, and observed by it or on its part, then these presents and the estate and the rights hereby granted shall cease, determine, and be void, and thereupon the Trustees shall, upon request of the Company and at its expense, cancel and discharge the lien of this indenture, and execute and deliver to the Company such deeds as shall be requisite to satisfy the lien hereof, and reconvey to the Company the estate and title hereby conveyed, and assign and deliver to the Company any property subject to the lien of this indenture which may then be in its possession. Bonds for the payment or redemption of which money shall have been set apart by or paid to the Corporate Trustee shall be deemed to be paid within the meaning of this Article.

[Article X deals with immunity of officers, stockholders, and directors; Article XI with consolidations, mergers, and sales.]

#### ARTICLE XII

##### CONCERNING THE TRUSTEES

The Trustees accept the trusts hereunder and agree to perform the same upon the terms and conditions hereof, including the following:

SECTION 1. The Trustees shall not be required to take notice of any default hereunder unless specifically notified in writing of such default by the holders of 5 per cent in amount of the bonds then outstanding hereunder, and, until so notified, the Trustees may assume that no default has happened. The Trustees shall not be under any obligation to take any action in respect of any default or otherwise, nor toward the execution or enforcement of any of the trusts hereby

created, nor to institute, appear in, or defend any suit or other proceeding in connection therewith, nor to make or advance any payments or money unless requested in writing so to do by the holders of 25 per cent in amount of the bonds then outstanding, and if in their opinion such action may tend to involve them in expense or liability, unless furnished from time to time as they may require with security and indemnity satisfactory to them; but this provision shall not affect any discretionary power herein given to the Trustees. For acting upon or in accordance with any notice, request, consent, certificate, bond, coupon, or other document or paper believed by them to be genuine and to have been signed or presented by the proper person, or duly authorized or properly made, the Trustees shall not be liable to anybody. They may, however, in their discretion, require the production of any bond or bonds or other and further proof of the ownership thereof. Any request, consent, or vote of the owner of any bond shall bind all future owners of the same instrument in respect of anything done or suffered by the Trustees in pursuance thereof.

The recitals and statements herein and in said bonds and coupons contained shall not be considered as made by or as imposing any obligation or liability upon the Trustees. The Trustees make no representation as to the validity of this indenture, or of any bonds or coupons issued hereunder, nor as to the security hereby afforded, nor as to the title of the Company to the property hereby mortgaged. The Trustees shall be under no obligation to see to the recording, registration, filing, or refiling of this indenture or any instrument of further assurance, or to the giving of any notice thereof, or to see to the delivery to them of personal property intended to be mortgaged or pledged hereunder, or generally to see that any of the property intended now or hereafter to be conveyed in trust hereunder is subject to the lien hereof. The Trustees shall not be accountable for the use of any bond delivered hereunder or the application of the proceeds of the same.

The Trustees shall be under no duty in respect to any tax which may be assessed against them or against the owners of bonds hereunder in respect to the property hereby conveyed, nor in respect to any other prior liens, nor to see to the insurance of any part of the property hereby mortgaged or pledged. The Trustees may select and employ hereunder suitable agents and attorneys, and for their acts and neglects, if selected with reasonable care, they shall be in nowise

responsible. The Trustees shall not be liable for any error of judgment or the exercise of their discretion hereunder; but the Trustees may, in their discretion, advise with legal counsel to be selected and employed by them at the expense of the Company and of the Trust Estate, and shall be fully protected in any action under this indenture taken by them in good faith in accordance with the opinion of such counsel. Finally, and generally, the Trustees, save for their own wilful default or gross negligence, shall not be personally liable to anybody.

The Company agrees, from time to time, on demand, to pay to the Trustees reasonable compensation for their services, to reimburse the Trustees for all their expenditures, and to indemnify and save the Trustees harmless against any liabilities which they may incur in the exercise and performance of their powers and duties hereunder; and for such indemnification, reimbursement, and compensation a first lien is hereby imposed by the Company in favor of the Trustees upon the trust estate.

[Sections 2 to 5 inclusive deal with the resignation and discharge of Trustees, and similar topics.]

#### ARTICLE XIII

##### MISCELLANEOUS PROVISIONS

The Company hereby agrees to refund on application the present Pennsylvania four-mill tax to holders resident in Pennsylvania who have paid such tax and who shall make written application therefor to the Company at its office in Kansas City, Missouri, within the period of four months next after the date of each and every payment of such tax by said holder and the Company shall not be liable to reimburse any holder for any such tax unless such request be made within such period.

All the covenants, stipulations, and agreements in this indenture contained are and shall be for the sole and exclusive benefit of the parties hereto, their successors and assigns, and of the holders of the bonds and of the coupons hereby secured. . . .

In witness whereof, said Kansas City Power and Light Company has caused this instrument to be executed in its corporate name by its vice-president and its corporate seal to be hereto affixed and attested by its secretary and said Continental and Commercial Trust and Savings Bank has caused this instrument to be executed in its corporate name by a vice-president and its corporate seal to be hereto

affixed and attested by an assistant secretary and said John F. Downing has hereunto set his hand and seal, all as of the day and year first above written.

KANSAS CITY POWER AND LIGHT COMPANY

By H. C. BLACKWELL  
*Vice-President*

[SEAL]

Attest:

CHESTER C. SMITH  
*Secretary*

Signed, sealed and delivered on behalf  
of Kansas City Power and Light  
Company in the presence of:

JOSEPH V. KLINE  
MALCOLM B. CARROLL

CONTINENTAL AND COMMERCIAL TRUST AND  
SAVINGS BANK.

By LOUIS B. CLARKE  
*Vice-President*

[SEAL]

Attest:

E. J. CLAUSSEN  
*Assistant Secretary*

QUESTIONS

1. Precisely what kind of a bond is this new issue of the Kansas City Power and Light Company?
2. Is it secured by a closed mortgage? An open end mortgage? A limited open end mortgage? What is the significance in each case (a) from the corporation's point of view? (b) from the investor's point of view? Suggest some possible limitations to further issues under the indenture other than those mentioned. Justify them.
3. Is the issue consolidating? Is it a blanket mortgage issue? Show why in each case. What are the advantages, if any, of such issues?
4. Does the indenture contain an "after acquired property clause"? What is the significance of this clause from the point of view of corporation and investor? Answer the same question assuming the absence of said clause. Indicate some ways of circumventing the after acquired property clause. Discuss each with a view to ascertaining effects on the corporate financial structure.



5. What object is accomplished by reserving bonds (Series B) to refund the first and second mortgage bonds? Does this add to the security of Series A? Of future issues?
6. Does the pledge of \$4,617,000 first mortgage bonds make this issue safer than it would be if those bonds were canceled?
7. Is the mortgage on this company's real property, etc., better security than would be afforded by the company's debenture bond? Why or why not?
8. Answer the foregoing question for a railroad, a timber company, a shoe manufacturing company. What do you believe to be the real security of any bond? Why?
9. Try to estimate in a general way the ratio of mortgageable to total value of the properties indicated in Question 8. Do you agree that the ratio of mortgageable to total value has been properly determined in this case? Why or why not?
10. How may "first lien" bonds differ from first mortgage bonds? Does it seem to you that the word "first" in the name given a bond has any special significance? Why or why not? Might a second mortgage, or a "junior lien" bond be perfectly safe? Why or why not?
11. What is the purpose of excepting from "the lien and effect of this mortgage all lamps, supplies, etc., held for sale as merchandise"?
12. What is the purpose of Article IX?
13. Why not include depreciation as a deduction in figuring net earnings? (Section 8, Article I.)
14. How is the lien of the investor protected against prior liens on purchased property? May this not hamper expansion programs? Can you suggest any way out?
15. Does the indenture seem unnecessarily long and wordy? If so, why were not the redundant phrases eliminated?
16. State the purposes of the maintenance and depreciation funds. Criticize and justify these devices. Should they be used in the case of an issue of bonds of a copper mining company? Of a railroad? Of a company manufacturing novelties? Of an issue of timber bonds? Why or why not, in each case?
17. Do you believe that Section 20, Article II is important? If so, to whom? Why? How else (besides guaranties) may the company become responsible for obligations of any other concern? Would this clause hamper the company in any way? If so, how?
18. Point out clauses in the deed of trust which give the company elasticity in carrying on its operations.
19. What are the remedies in case of default? Do you see any weaknesses in the clauses concerning remedies for default, and concerning duties and liabilities of trustees?

20. How will the issue of these bonds affect the position of common and preferred stockholders? Why not issue common stock rather than bonds in this case? Preferred stock?
21. What is the significance of a refunding issue from the point of view of maturity of funded debt in general? Is it good financial policy to incur perpetual funded debt? Why or why not?
22. Was it good financial policy for this company to sell long-term bonds at 8 per cent in 1920? Why or why not? Why not sell short-term notes? Would your answer be the same for 1915? Why or why not?
23. Why is the redemption premium decreased as the date of maturity nears? Why offer a premium for redemption? Does it influence the bondholder? Is it profitable from the company's point of view? Why or why not?
24. What is the significance of the word "gold" in the name of a bond? Why not "silver"? Why not "legal tender"? Why not "currency"?
25. What direct and indirect control do these bondholders exercise over the affairs of the company? Is this control adequate for the protection of the bondholder?
26. Suggest other clauses which might be inserted for the protection of the investor. Are these clauses disadvantageous to the company? Why or why not?
27. Criticize the prospectus. Suggest any alterations or additions you think necessary.
28. Can the Kansas City Power and Light Company extend the first and second mortgage bonds? If so, would it be good policy? Why or why not?
29. "The company covenants to maintain net assets of at least 250 per cent of the total funded debt and to maintain current assets at least 140 per cent of current liabilities." Criticize this provision in a first mortgage bond issue of the American Agricultural Chemical Company, 1920.
30. "The Company covenants that it will maintain net quick assets equal to par value of outstanding bonds and that during the life of the bonds no dividends shall be declared which will reduce surplus of the Company under \$25,000,000 after depreciation and all charges." (From indenture of Swift and Company's first gold 5's.) Criticize this clause from the point of view of investor's protection and of corporate financial policy.

STUART P. MEECH

UNIVERSITY OF CHICAGO